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July 12, 2002 OFFICE OF THE
EXECUTIVE SECRETARY

The Honorable Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

In Re: BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA)
Service in Tennessee Pursuant to section 271 of the Telecommunications Act of
1996

Docket No. 97-00309

Dear Chairman Kyle:

Please accept for filing the original and fourteen copies of the Testimony of Greg Darnell filed on behalf of WorldCom Communications, Inc., MCI Metro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. (collectively "WORLDCOM" in the above-captioned proceeding.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: *Henry Walker*
Henry Walker

HW/nl
Attachment

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

In Re: BellSouth Telecommunications, Inc.'s)
Entry into Long Distance (interLATA) Service)
in Tennessee Pursuant to Section 271 of the)
Telecommunications Act of 1996)

Docket No. 97-00309

**PREFILED REBUTTAL TESTIMONY OF GREG DARNELL
ON BEHALF OF MCI WORLDCOM COMMUNICATIONS, INC.,
MCIMETRO ACCESS TRANSMISSION SERVICES, LLC AND
BROOKS FIBER COMMUNICATIONS OF TENNESSEE, INC.
(COLLECTIVELY "WORLDCOM")**

1

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Greg Darnell, and my business address is 6 Concourse Parkway, Suite 3200,
4 Atlanta, Georgia, 30328.

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by WorldCom, Inc. as Regional Senior Manager -- Public Policy.

8

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED?**

10 A. Yes, I have testified in proceedings before regulatory commissions in Alabama, California,
11 Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina and South Carolina, as
12 well as before the Tennessee Regulatory Authority ("TRA"), and on numerous occasions
13 have filed comments with the Federal Communications Commission ("FCC"). Attached as
14 Exhibit (GJD-1) to this testimony is a summary of my academic and professional
15 qualifications.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

18 A. The purpose of my testimony is to show that BellSouth does not currently provide
19 nondiscriminatory access to all required network elements in accordance with the
20 requirements of checklist item (ii). In doing so, I will rebut portions of the direct testimony
21 of Mr. John A. Ruscilli proffered on behalf of BellSouth. This witness erroneously claims
22 that BellSouth meets this checklist requirement by offering nondiscriminatory access to all
23 required UNEs at TELRIC rates.

24 **Q. WHAT DOES CHECKLIST ITEM NO. (ii) REQUIRE?**

1 A. Section 271(c)(2)(B)(ii) states that BellSouth must provide "Nondiscriminatory access to
2 network elements in accordance with the requirements of sections 251(c)(2) and 252(d)(1)."

3
4 Section 252(d)(1) in turn requires that the pricing of unbundled network elements shall be
5 nondiscriminatory, based on the cost (determined without reference to a rate-of-return or
6 other rate-based proceeding) of providing the interconnection or network element, and may
7 include a reasonable profit.

8
9 **Q. HAS THE FCC ADOPTED PRICING RULES TO IMPLEMENT THE**
10 **REQUIREMENTS OF SECTION 252(d)(1)?**

11 A. Yes, the FCC in August 1996 promulgated pricing rules which govern the states'
12 implementation of the section 252(d)(1) pricing requirements. *In re Implementation of the*
13 *Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-
14 98, First Report and Order (rel. Aug. 8, 1996) ("Local Competition Order"). Despite
15 appeals by BellSouth and other ILECs, the FCC's authority to promulgate pricing rules was
16 upheld by the United States Supreme Court. *See AT&T Corp. v. Iowa Utils. Bd.*, 119 S. Ct.
17 721 (1999). The FCC's pricing rules require that states interpret Section 252(d)(1) of the
18 Act to require that the rates for UNEs to be set at the sum of the Total Element Long Run
19 Incremental Cost (TELRIC), plus a reasonable allocation of forward-looking common costs.
20 47 C.F.R. § 51.505(a). The TELRIC of a UNE is defined by 47 C.F.R. § 51.505(b) as:

21 (T)he forward-looking cost over the long run of the total quantity of the
22 facilities and functions that are directly attributable to, or reasonably
23 identifiable as incremental to, such element, calculated taking as a
24 given the incumbent LEC's provision of other elements.
25

1 **Q. DOES THE FCC REQUIRE A SPECIFIC APPROACH TO TELRIC PRICING?**

2
3 A. Yes. The particular TELRIC approach taken by the FCC, and made applicable to the
4 states, is often referred to as the “scorched node” method. 47 C.F.R. §51.505 (b) (1) states:

5 Efficient network configuration. The total element long-run
6 incremental cost of an element should be measured based on the use of
7 the most efficient telecommunications technology currently available
8 and the lowest cost network configuration, given the existing location
9 of the incumbent LEC's wire centers.

10
11 The FCC's TELRIC methodology assumes that wire centers will be placed at the ILECs'
12 current wire centers, but that the rest of the network will be reconstructed assuming the
13 most-efficient technology for reasonably foreseeable capacity requirements. Local
14 Competition Order ¶ 685. This definition of “forward-looking” adopted by the FCC takes
15 existing switch locations as a given, and then, assuming a hypothetical carrier, “builds out”
16 an interoffice and local network, based on efficient engineering practices and forward-
17 looking (but currently available), least-cost technology.

18
19 **Q. WHAT MUST BELLSOUTH DO TO DEMONSTRATE THAT ITS UNE RATES**
20 **COMPLY WITH THE ACT AND FCC RULES?**

21 A. By definition, “cost-based” rates must be supported by cost studies proving that the rates are
22 derived from the forward-looking cost of providing the leased elements, taking into account
23 the particular circumstances present in each state. The FCC has specifically stated that it
24 expects “a BOC to include in its [section 271] application detailed information concerning
25 how unbundled network element prices were derived.” *In re Application of Ameritech*
26 *Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to*

1 *Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-137, Memorandum
2 Opinion and Order, FCC 97-298 at ¶ 291 (rel. Aug. 19, 1997) (footnote omitted). The FCC
3 will reject a 271 application if basic TELRIC principles are violated. *In re Application of*
4 *Verizon New England Inc., Bell Atlantic Communications Inc. (d/b/a Verizon Long*
5 *Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), And*
6 *Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services*
7 *in Massachusetts*, CC Docket No. 01-9, Memorandum Opinion and Order, FCC 01-130 at ¶
8 20 (rel. April 16, 2001).

9
10 **Q. WHAT UNE RATES HAS BELL SOUTH SUBMITTED IN THIS PROCEEDING?**

11 A. The rates which BellSouth has submitted are included as Attachment 2, Exhibit B to
12 BellSouth's proposed Statement of Generally Available Terms (SGAT), which is Exhibit
13 JAR-4 to Mr. Ruscilli's testimony. Some of the rates contained on this exhibit are identified
14 as "permanent" rates and some of the rates contained on this exhibit are identified as
15 "interim" rates.

16
17 **Q. DOES THIS FILING SHOW THAT BELL SOUTH'S EXISTING UNE RATES FOR**
18 **THE REQUIRED UNES IN TENNESSEE ARE "COST-BASED" AND IN**
19 **COMPLIANCE WITH THE ACT?**

20 A. No. Rates for many elements included in BellSouth's filing are excessive because they are
21 based on out-of-date technology and are not based on the least cost, forward looking
22 technology available in the marketplace today.

23
24 **Q. WHICH RATES CONTAINED ON THIS EXHIBIT ARE CLEARLY EXCESSIVE**
25 **AND DO NOT MEET THE FCC'S REQUIREMENT TO BE BASED ON THE LEAST**
26 **COST MOST EFFICIENT TECHNOLOGY THAT IS CURRENTLY AVAILABLE?**

1 A. Basically, recurring rates associated with the provision of analog voice grade services, all
2 sub-loop feeder rates and all local transport related rates on this exhibit are excessive and not
3 based on the least cost most efficient technology that is currently available. Specifically, the
4 recurring analog voice grade SL1 and SL2 loop rates (i.e. elements A.1.1 and element
5 A.1.2), the recurring analog voice grade loop combination rate (i.e. element P.1.1), the
6 subloop distribution rates (e.g. element A.2.2) the subloop feeder rates (e.g. A.2.1, A.2.24),
7 the common transport rates (i.e. element D.1.1 and D.1.2) and the tandem switching rates
8 (i.e. element C.1.1 and C.1.2) are excessive and are not based on today's least cost most
9 efficient technology.

10
11 Q. WHAT YOUR BASIS FOR THIS STATEMENT?

12 A. There are a number of reasons. The analog loop, transport and switching rates that currently
13 exist in Tennessee are based on data from 1995 and 1998. As such, even if this data did
14 represent the least cost most efficient technology currently available at that time, it is no
15 longer the least cost most efficient technology currently available because of technological
16 advances in telecommunications equipment that have occurred since that time. Further,
17 there has been a significant decline in the cost of the facilities that were used to develop the
18 existing rates since the time that the cost studies that support the rates were filed.

19
20 Q. WHAT TECHNOLOGICAL ADVANCES HAVE OCCURRED SINCE THE TIME
21 WHEN THE TRA LAST ANALYZED UNE RATES?

22 A. A number of technological advances have occurred. Most important to WorldCom, and I
23 expect other CLECs in Tennessee, was BellSouth's announcement that it will begin using
24 dual purpose line cards to provision DSL services over its existing fiber feeder facilities.

1 Q. HOW DOES THE USE OF DUAL PURPOSE LINE CARDS FOR DSL SERVICE
2 REDUCE THE COST OF VOICE GRADE FACILITIES?

3 A. These dual purpose line cards greatly increase the capacity of BellSouth Digital Loop
4 Carrier (DLC) network without an equal and corresponding increase in cost. As such, since
5 capacity is increased faster than cost, per voice grade equivalent feeder cost has dramatically
6 declined.

7
8 Q. DOES THIS TECHNOLOGICAL ADVANCE ALSO IMPACT THE COST OF THE
9 DISTRIBUTION PORTION OF THE NETWORK?

10 A. Yes. When a customer places an ADSL line splitter/modem at his location and connects
11 that line splitter/modem to his 2-wire copper distribution wire, the capacity of 2-wire copper
12 distribution plant is greatly increased. This increased capacity comes without an equal and
13 corresponding increase in cost. As such, the per-voice-grade-equivalent cost of distribution
14 facilities has drastically declined in the last few years.

15
16 Q. HAVE THE MATERIAL COSTS OF FACILITIES DROPPED SINCE THE TIME
17 THE TRA LAST ANALYZED THEM?

18 A. Yes. Much of the cutting edge, least cost most efficient
19 forward looking technology that was in high demand and low supply
20 a few years ago, now is in low demand in high supply. As such,
21 simple economics have forced prices for these materials to drop
22 significantly. For example, the cost of Digital Loop Carrier
23 equipment has dropped significantly in recent years.¹

24
25 Q. HAS BELL SOUTH PROVIDED ANY PUBLIC EVIDENCE THAT SHOWS
26 THAT ITS PER UNIT COST OF PROVIDING TELECOMMUNICATIONS SERVICE IN
27 TENNESSEE HAS DROPPED IN RECENT YEARS?

¹ One study calculates the reduction in DLC equipment costs from 1994 to 2001 to be approximately 38%. See, California PSC, Interim Opinion Establishing Interim Rates for Pacific Bell Telephone Company's Unbundled Loop and Unbundled Switching Network Element, May 16, 2002, p. 22

1 A. Yes. BellSouth's Automated Reporting Management Information System (ARMIS) reports
2 filed with the FCC show that BellSouth's per-unit cost of providing telecommunications
3 service in Tennessee has dropped by 21.9% from 1998 to 2001 and dropped by 31.4% from
4 1996 to 2001.

5
6 Q. HAS BELL SOUTH PROVIDED ANY PUBLIC EVIDENCE THAT
7 DEMONSTRATES THAT ITS TRANSPORT AND SWITCHING RATES THAT EXIST
8 IN TENNESSEE ARE EXCESSIVE?

9 A. Yes. BellSouth's June 10, 2002 filing in North Carolina Docket No. P.100, Sub 133d,
10 illustrates that the currently effective common transport and tandem switching rates that
11 exist in Tennessee are excessive. The currently effective tandem switching and trunk port
12 cost in Tennessee is \$0.0009778 per minute of use. BellSouth's proposed tandem switching
13 and trunk port cost in North Carolina is \$0.0003074, or more than 300% less than in
14 Tennessee. Any legitimate cost differences that exist between Tennessee and North
15 Carolina for tandem switching and trunk port do not amount to 300%. In fact, since tandem
16 switching and trunk port costs are not very dependent upon geography, the cost in Tennessee
17 should be very close to the cost in North Carolina (e.g. plus or minus 5%). In the other
18 BellSouth states that have re-set tandem switching and trunk port rates in the last two years
19 the approved rates are as follows: Alabama \$0.0002915; Florida \$0.0003571; Kentucky
20 \$0.0004356; Louisiana \$0.0004067; Mississippi \$0.0003551; and South Carolina
21 \$0.0004497.²

22

² Georgia, the only other BellSouth state that has not re-set the tandem switching cost in the last two years, set its Tandem Switching rate back in 1997 and it is currently \$0.0008883. However, in the currently pending UNE case before the Georgia PSC, BellSouth has proposed a tandem switching and trunk port cost of \$0.0003250.

1 BellSouth's June 19, 2002 filing in North Carolina also demonstrates that the common
2 transport rates that exist in Tennessee are excessive. BellSouth's proposed common
3 transport rate in North Carolina is \$0.0002375 per minute. BellSouth's currently effective
4 common transport rate in Tennessee is \$0.0003871 per minute. The common transport rate
5 that BellSouth has proposed in North Carolina is approximately 1/2 the currently effective
6 common transport rates in BellSouth's other eight states on average.

7
8 Q. WHAT DOES THE COMBINATION OF IMPROVEMENTS IN NEW
9 TECHNOLOGIES AND DECLINE IN PRICES OF OLDER TECHNOLOGIES MEANS
10 TO FORWARD LOOKING UNE COST?

11 A. It means that the forward looking cost of many UNEs has dropped significantly since the
12 last time the TRA analyzed UNE rates and that the current UNE rates are not cost based and
13 not in compliance with the Act or section (ii) of the 271 checklist.

14
15 Q. DOES BELLSOUTH PROVIDE NON-DISCRIMINATORY ACCESS TO
16 UNBUNDLED NETWORK ELEMENTS AS REQUIRED BY ITEM TWO OF THE
17 COMPETITIVE CHECKLIST?

18 A. No. BellSouth does not provide non-discriminatory access to unbundled voice grade loops.
19 BellSouth uses its monopoly market power in the DSL market to discriminate against parties
20 that wish to purchase service from CLECs that utilize voice grade loops.

21
22 Q. HOW DOES BELLSOUTH USE ITS MONOPOLY POSITION IN THE DSL
23 MARKET TO DISCRIMINATE AGAINST CLECs THAT WANT TO COMPETE FOR
24 RESIDENTIAL POTS?

25 A. BellSouth refuses to sell its FastAccess DSL service to customers that purchase UNE-P
26 based voice service from CLECs.

27
28 Q. IS BELLSOUTH'S POLICY INHERENTLY DISCRIMINATORY?

1 A. Yes. Consider the situation where two customers currently subscribe to BellSouth's voice
2 and DSL service and one wants to change its voice service to WorldCom's new residential
3 "Neighborhood" product so that they can enjoy national unlimited local calling at a flat
4 monthly rate. The underlying local facilities that would be used to provide WorldCom's
5 Neighborhood product are the same facilities that the customer is using with BellSouth's
6 service. So, there can be no question that they are similarly situated – they are identical.
7 Yet, BellSouth will continue to provide FastAccess to only the customer that keeps its voice
8 service with BellSouth while will affirmatively disconnect the other customer for choosing
9 WorldCom to provide its voice service. No clearer example of discrimination can be found.

10
11 **Q. IS BELL SOUTH'S DISCRIMINATION REASONABLE?**

12 A. No. Initially, BellSouth did sell its FastAccess DSL service to customers that purchased
13 UNE-P based voice service from CLECs. It did so without knowing it was doing it.
14 However, once BellSouth realized it was putting its DSL service on CLEC UNE-P loops, it
15 sent a letter to all the CLECs informing them that: current customers receiving UNE-P
16 voice service and BellSouth DSL service would have to be converted to resale or would lose
17 their DSL service. Going forward, BellSouth refused to provide its DSL service to
18 customers to any new customers that subscribed to a CLEC voice service provided over
19 UNE-P. As such, BellSouth had to go out of its way and spend additional money to create
20 this discriminatory situation.

21
22 **Q. WHY WOULD BELL SOUTH FORCE CUSTOMERS TO MAKE THIS CHOICE?**

23 A. Because it accomplishes two of BellSouth's objectives. First, it kills a segment of UNE-P
24 competition. Second, it kills the segment of UNE-P competition that has the best margins.
25 BellSouth recognizes that its DSL customers tend to be its highest margin voice customers.

1 That is, a DSL customer is more likely to purchase high margin vertical services (e.g. switch
2 features such a caller ID and call waiting, and voice mail). Bottom line, they force
3 customers to make this choice because thus far most state and federal regulators have not yet
4 acted to keep BellSouth from leveraging their monopoly power in this manner.
5

6 Q. HAVE ANY STATE REGULATORS REALIZED WHAT IS HAPPENING AND
7 TAKING STEPS TO CORRECT IT?

8 A. Yes. The Florida PSC recently issued an order requiring BellSouth to sell its FastAccess
9 DSL service to customers that purchase UNE based voice services from CLECs.³ In
10 addition, the Louisiana PSC recently issued a staff recommendation that would require
11 BellSouth to sell its FastAccess DSL service to customers that purchase UNE-P based voice
12 services from CLEC.⁴ Most recently, the Kentucky Public Service Commission reached the
13 same conclusion, ordering "BellSouth shall not refuse to provide its DSL service to a
14 customer on the basis that the customer receives voice service from a CLEC that provides
15 service by means of UNE-P."⁵
16
17

18 Q. IS THIS UNREASONABLE DISCRIMINATION PROHIBITED UNDER STATE
19 LAW IN TENNESSEE?

³ Florida Order Number PSC-02-0765-FOF-TP, Docket No. 010098-TP.

⁴ Before the Louisiana Public Service Commission, In Re: BellSouth's Provision of ADSL service to end users over CLEC loops – Pursuant to the Commission's directive in Order U-2252-E, Docket No. R-26173.

⁵ Before the Kentucky Public Service Commission, In the Matter of *Petition of Cinergy Communications Company for Arbitrations of an Interconnection Agreement with BellSouth Telecommunications, Inc.*, Pursuant to U.S.C. Section 252, Docket No. 2001-00432, Issued July 12, 2002.

1 A. Yes. Section 65-4-115 of the Tennessee Code Annotated states that "No public utility shall
2 adopt, maintain, or enforce any regulation, practice, or measurement which is unjust,
3 unreasonable, unduly preferential or discriminatory, nor shall any public utility provide or
4 maintain any service that is unsafe, improper, or inadequate, or withhold or refuse any
5 service which can reasonably be demanded and furnished when ordered by the authority."
6 So, clearly BellSouth should not be permitted to refuse to provide it DSL service to CLEC
7 UNE-P voice customer, as those customers have reasonably demanded that service. Further,
8 BellSouth's practice to deny CLEC voice customers FastAccess DSL service is unduly
9 preferential and discriminatory.

10
11 Section 65-4-122(c) of the Tennessee Code Annotated adds, it is unlawful for BellSouth to
12 give an undue or unreasonable preference or advantage to "any particular description of
13 traffic or service." Given that BellSouth initially did not even know it was putting its DSL
14 service on CLEC UNE-P loops and had to invest in additional systems so that they would
15 not continue to do so, it is clear that BellSouth is giving unreasonable preference and
16 advantage to CLECs buying resold BellSouth service over CLECs buying UNE-P.

17
18 Q. WHAT IS THE EFFECT OF THIS DISCRIMINATORY TACTIC ON THE
19 MARKETPLACE?

20 A. It virtually eliminates competition for any customer that today or at some time in the future
21 may want DSL service from the market that CLECs offering voice service are able to
22 compete for.

23
24 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

25 A. Yes.

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*****
* User name:   NRidley (200)           Queue:  BCCB4/CN=12HP4C.OU=Printers.*
* File name:                                     Server: 12HP4C-PS
* Directory:
* Description: LPT1                               1:17pm
*          July 12, 2002
*****
*
*          N   N RRRR   i       d   ll
*          N   N R   R       d   l
*          NN  N R   R   ii     dddd  l   eee   y   Y
*          N N N RRRR   i   d   d   l   e   e   y   Y
*          N   NN R R   i   d   d   l   eeeee y   Y
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*          L       PPPP  TTTTT   1
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July 12, 2002

#82

State Sales Tax Rate Increased Effective July 15, 2002

By Dennis Huffer
MTAS Legal Consultant

On July 15, 2002, the state sales and use tax on non-food items increases from 6 percent to 7 percent (as mandated by Section 4 of Chapter No. 856 of the Public Acts of 2002). Since the effective date is almost immediate, cities must act promptly to make sure that city sales subject to the tax—residential and commercial water, for example—are taxed at the proper rate. According to the Department of Revenue, the rate of the state tax to be applied will depend on when the meter is read. If the meter is read before July 15, 2002, the state rate to be applied will be 6 percent. If the meter is read on or after July 15, 2002, the state rate to be applied will be 7 percent.

For July, according to the Department of Revenue, cities will report taxable sales on one line as always. Cities will apply the 6 percent rate for meters read on or before July 14 and the 7 percent rate for meters read on or after July 15.

The act does not affect the 1 percent state rate on water sold to or used by manufacturers (or the corresponding local rates of 1/3 percent if the rate of the local sales tax does not exceed 1 percent and 1/2 percent if the local rate does exceed 1%) nor the 1.5% state rate on gas, electricity, fuel oil, coal, and other energy fuels sold to or used by manufacturers. Neither does the act affect the exemption from state and local sales taxation of electricity, gas, fuel oil, coal, and other energy fuels sold to consumers for residential use, nor the complete exemption of sales of these forms of energy under the local sales tax.

In addition to the 1 percent rate increase in the state sales tax, this new legislation enacts a state tax of 2.75% on the purchase price of items over \$1,600 subject to the local sales tax. This expansion of the local sales tax for state purposes applies to the amount of the purchase over \$1,600 up to and including \$3,200. Local sales taxes remain intact and still apply to the first \$1,600 of the purchase price of a single article. The effect of these changes is that on a non-food purchase, a consumer pays a state sales tax at the 7 percent rate and a local sales tax at the applicable local rate on the first \$1,600 of any purchase, a state sales tax of 9.75% on the part of a purchase over \$1,600 through \$3,200, and then returns to paying a state rate of 7 percent on any amount of a purchase exceeding \$3,200.

Also effective July 15, Section 5 of this act repeals a 1.5 percent (2.5 percent for tobacco products) gross receipts tax on vending machines and applies the state sales tax to vending machine purchases. The increase in revenue from this tax increase is not designated for state

purposes only, so municipalities should get their normal portion of these increased revenues. This part of the act also appears to apply local sales taxes to vending machine sales, since the local sales tax applies to substantially the same items as the state sales tax, and there is nothing exempting vending machine sales from local sales taxes.

Increased revenues produced by increases in the rate of the state sales tax and by the expansion of the local sales tax base for state purposes accrue to the state general fund; municipalities do not share in these revenue increases. Municipalities will continue to receive shared sales tax revenue under the existing formula based upon the sales tax rate in effect before July 15. This means that municipalities should receive substantially the same revenue from this source as last year, taking into account: 1) normal increases when consumers buy more goods and when prices increase, 2) an increase in revenues because of the expansion of the sales tax to include vending machine sales, and 3) leakage that will probably be exacerbated by the increased rate.

This act also provides that the 6 percent state rate plus the applicable local sales tax rate in effect on July 1, 2002, apply to sales to contractors and subcontractors for the performance of lump sum or unit price contracts when the contract was entered into before July 15, 2002 (before September 1, 2002, for subcontracts under a general contract qualifying for the 6 percent rate). The vendor collects the 7 percent tax plus the applicable local rate, and the contractor or subcontractor must apply to the Department of Revenue for a refund of the difference.

Finally, the act does not affect the local sales tax rate on food since the state rate on food is not increased. Local governments retain the authority to levy a maximum local rate of up to 2.75% on most items subject to the state sales tax.

If you have questions about the effects of the increases in sales and use taxes, contact your MTAS Finance Consultant.

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to The University.

The University does not discriminate on the basis of race, sex, or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA, the Age Discrimination in Employment Act (ADEA), or any of the other above referenced policies should be directed to the Office of Diversity Resources (DRES). 2110 Terrace Avenue, Knoxville, Tennessee 37996-0213, (865) 974-2498 (V/TTY available) or (865) 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the Office of Human Resources, 600 Henley Street, Knoxville, Tennessee 37996-4125.

E14-1050-000-033-03

UT™

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of July, 2002, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S. Mail, postage prepaid, addressed as follows:

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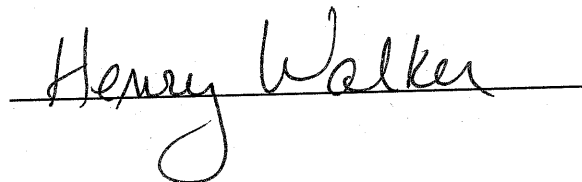
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